

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 5 - SB 18**

January 22, 2023

**SUMMARY OF BILL:** Requires the sentence for a person convicted of especially aggravated kidnapping, aggravated rape, or rape be no less than a sentence imposed for a Range II offender. Beginning January 1, 2024, expands the requirement to register as a sexual offender to all defendants convicted of a kidnapping offense, rather than just an offense that involved a minor victim.

**FISCAL IMPACT:**

**NOT SIGNIFICANT**

Assumptions:

- Pursuant to Tenn. Code Ann. § 39-13-305(b)(1), especially aggravated kidnapping is a Class A felony.
- Pursuant to Tenn. Code Ann. § 40-35-112(b)(1), a Range II sentence for a Class A felony offense is not less than 25 years nor more than 40 years.
- Pursuant to Tenn. Code Ann. § 40-35-501(bb)(1), as amended by Public Chapter 988 of 2022, a person convicted of especially aggravated kidnapping on or after July 1, 2022 is required to serve 100 percent of the sentence imposed.
- The average sentence for a Class A felony offense of especially aggravated kidnapping is 19.46 years.
- Pursuant to Tenn. Code Ann. § 39-13-502(b), aggravated rape is a Class A felony.
- Pursuant to Tenn. Code Ann. § 40-35-112(b)(1), a Range II sentence for a Class A felony offense is not less than 25 years nor more than 40 years.
- Pursuant to Tenn. Code Ann. § 40-35-501(i)(1), a person convicted of aggravated rape on or after July 1, 1995 is required to serve 85 percent of the sentence imposed.
- The average sentence for a Class A felony offense of aggravated rape is 21.14 years. Therefore, it is assumed that a person convicted of aggravated rape under current law would serve 17.97 years (21.14 x 85%).
- Pursuant to Tenn. Code Ann. § 39-13-503(b), rape is a Class B felony.
- Pursuant to Tenn. Code Ann. § 40-35-112(b)(2), a Range II sentence for a Class B felony offense is not less than 12 years nor more than 20 years.
- Pursuant to Tenn. Code Ann. § 40-35-501(aa)(1), a person convicted of rape on or after July 1, 2021 is required to serve 100 percent of the sentence imposed.
- The average sentence for a Class B felony offense of rape is 9.89 years.

- Pursuant to Tenn. Code Ann. § 9-4-210, this analysis estimates the highest cost for admissions in the next three years; therefore, any additional time added by the proposed legislation resulting in sentences exceeding three years in length surpass the window of this analysis and will not significantly impact incarceration costs.

#### *Sex Offender Registry Changes*

- Pursuant to Tenn. Code Ann. § 40-39-202(31)(H)-(I), and the proposed legislation, aggravated kidnapping and especially aggravated kidnapping are violent sexual offenses that require registry as a sex offender upon release from incarceration.
- Pursuant to Tenn. Code Ann. § 40-39-204(b)(1), violent sexual offenders are required to pay an annual \$150 administration fee. Of the \$150 fee, \$100 is required to be retained by the designated law enforcement agency for the purchase of equipment, to defray personnel and maintenance costs and any other expenses incurred as a result of maintain the sex offender registry (SOR). The remaining \$50 is required to be submitted by the registering agency to the state Treasury and deposited into the General Fund.
- Pursuant to Tenn. Code Ann. § 40-35-501(bb)(1), a person convicted of especially aggravated kidnapping on or after July 1, 2022 is required to serve 100 percent of the sentence imposed.
- The average sentence for a Class A felony offense of especially aggravated kidnapping is 19.46 years.
- Pursuant to Tenn. Code Ann. § 40-35-501(cc)(1), a person convicted of aggravated kidnapping on or after July 1, 2022 is required to serve 85 percent of the sentence imposed.
- The average sentence for a Class B felony offense of aggravated kidnapping is 11.63 years. Therefore, it is assumed that a person convicted of aggravated kidnapping would serve 9.89 years (11.63 x 85%).
- Due to the effective date and the length of average sentences for especially aggravated kidnapping and aggravated kidnapping, any increase in revenue to the TBI and the General Fund as a result of an increase in the number of individuals required to register with the SOR and pay the required administration fees will begin in FY34-35.

### **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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